In the United States Court of Federal Claims Office of Special Masters

(E-Filed: October 29, 2007) No. 99-207V

PHYLLIS NOE,		
)	
Petitioner,)	UNPUBLISHED
)	
V.)	Attorneys' Fees and Costs
SECRETARY OF THE DEPARTMENT OF)	
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
)	
)	

Clifford J. Shoemaker, Vienna, VA, for petitioner.

Robin L. Brodrick, with whom were Peter D. Keisler, Assistant Attorney General, <u>Timothy P. Garren</u>, Director, <u>Mark W. Rogers</u>, Deputy Director, and <u>Catharine E. Reeves</u>, Assistant Director, United States Department of Justice, Torts Branch, Civil Division, Washington, DC, for respondent.

ATTORNEYS' FEES AND COSTS DECISION1

On April 7, 1999, Phyllis Noe (petitioner or Ms. Noe) filed a petition pursuant to the National Vaccine Injury Compensation Program² (the Act or the Program). Petitioner

¹Vaccine Rule 18(b) states that all of the decisions of the special masters will be made available to the public unless an issued decision contains trade secrets or commercial or financial information that is privileged or confidential, or the decision contains medical or similar information the disclosure of which clearly would constitute an unwarranted invasion of privacy. When a special master files a decision or substantive order with the Clerk of the Court, each party has 14 days within which to identify and move for the redaction of privileged or confidential information before the document's public disclosure.

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended,

alleges that she "experienced adverse reactions" to the hepatitis B vaccinations that she received "[o]n or about September of 1997, October of 1997 and December 15, 1997." Petition (Pet.) at ¶ 3.

On May 25, 2007, the undersigned issued a decision that found that petitioner was not entitled to compensation under the Act.

On October 12, 2007, petitioner filed an Application for Attorneys' Fees and Costs (Fee App.) requesting a total of \$16,646.98, comprised of \$14,808.25 in attorneys' fees, \$1,377.78 in attorneys' costs, and \$460.95 in petitioner's costs. See Fee App., filed October 12, 2007. Respondent's counsel objected to the fee application. On October 18, 2007, respondent's counsel filed a joint status report amending petitioner's counsel's fee request. Petitioner's counsel now seeks \$13,908.25 in attorneys' fees, \$1,377.78, in attorneys' costs, and \$460.95 in petitioner's costs, for a total of \$15,746.98. See Joint Status Report (Joint SR) at 1.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300 aa-15(e). Based on the reasonableness of petitioners' request and on respondent's counsel's lack of objection to petitioners' counsel's amended fee request, the undersigned **GRANTS** the attorney's fees and costs as outlined in the joint status report filed on October 18, 2007.

The undersigned awards petitioner \$15,746.98 in fees and costs.

Therefore, in the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in petitioner's favor in the amount of \$15,746.98 in attorneys' fees and attorneys' costs and petitioner's costs.³ The judgment shall reflect that the Shoemaker and Associates law firm may collect \$15,286.03 from petitioner. See Joint SR at 1. Finally, the judgment shall reflect that petitioner may retain \$460.95 for his out-of-pocket expenses. Id. ¶ 5.

⁴² U.S.C.A. § 300aa-10-§ 300aa-34 (West 1991 & Supp. 2002) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

³ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
Patricia E. Campbell-Smith
Special Master